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FORMER PRESIDENTS FACILITIES AND SERVICES REFORM ACT OF 1986

JULY 31 (legislative day, JULY 28), 1986.—Ordered to be printed

Mr. ROTH, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany S. 1047]

The Committee on Governmental Affairs, to which was referred the bill (S. 1047) to reform the laws relating to former Presidents, having considered the same, reports favorably thereon with an amendment and recommends that the bill (as amended) do pass.

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I. NEED FOR LEGISLATION

The laws providing benefits to our Nation's former Presidents have developed piecemeal and with little regard to overall impact. While each statute was conceived with a sound purpose in mind, the passage of some twenty to thirty years since enactment and the failure of Congress to evaluate these programs comprehensively have resulted in overall benefit levels far exceeding original expectations, both in terms of the amounts and the purposes for which funds are spent.

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Prior to 1958, the President of the United States was virtually the only officer or employee of the Federal Government not covered by a retirement program. When President Truman left office in 1953, he received no pension, answered his mail using his own pen and paper, and paid for stamps out of his own pocket. He was not a wealthy man and expressed his opinion that a former President should not "commercialize" the ex-Presidency by entering the business world and profiting financially as a result of his service as President. His view was that it would be inappropriate for any former President to be employed by a firm because it would be impossible to know whether the company was hiring the former President because of his or her abilities or because they were once the President of the United States.

In part, due to President Truman's experiences, the Congress in 1958 passed the Former Presidents Act. The law established a pension for former Presidents, a pension for their widows or widowers, free mailing privileges for non-political mail, and an allowance for an office and staff. The intent was to enable former Presidents and their families to live in dignity, free from the need to pay for "official" expenses from their personal resources.

Secret Service protection has also been added to the list of services provided to our former Presidents. The Secret Service has had statutory responsibility for the permanent protection of former Presidents since 1965, and their wives, widows, and minor children since 1968. The intent behind providing this protection was to reduce the danger of threats against the lives of former Presidents due to the important and visible national symbol associated with the Office of the Presidency and personified by those who have served in that office.

Viewed comprehensively, the funds spent for former Presidents programs has grown exponentially from $63,745 in 1955 to some $27 million in 1985. This cost now exceeds the $22 million needed to operate the incumbent President's White House Office. This increase also greatly exceeds the original expectations Congress had for these programs. "The Former Presidents Facilities and Services Reform Act of 1985" is intended to establish a reasonable set of controls on Federal spending for programs supporting our former Presidents while maintaining a reasonable amount of support to assist former Presidents in responding to the public and fulfilling their roles as elder statesmen and advisors to the government and our citizens. S. 1047 is designed to reverse the increasing costs of the services and protection currently provided to former Presidents. In addition, it would accomplish three other objectives.

First, it will restore the former Presidents programs to their original intent: to ensure that former Presidents can live dignified retired lives free from the need to "commercialize" and demean their status as elder statesmen. Originally the programs were established for former Presidents who were severely pressed financially to handle the mail, telephone calls and requests for speeches received once they retired from office. They were not intended to create extensive and costly offices and staff to support our former Presidents nor to establish a formal "Office of the Ex-Presidency".

Second, our living former Presidents have done quite well financially once they have left office. Although they deserve to receive

some support to respond to the requests of the public that arise as a result of their service as President, such support should be carefully controlled and offered in a coordinated fashion. The existing laws with regard to benefits to former Presidents are uncoordinated and do not establish limits on the level of benefits to be provided. S. 1047 would provide such limitations and would ensure that all benefits are seen as a part of a comprehensive package. By coordinating the benefit laws, the totality of the support offered to our former Presidents can be better judged and monitored. In addition, the limits that would be placed in law on benefit levels by S. 1047 would further constrain the dramatic growth which has occurred in benefit programs over the last two decades.

Third, by gradually scaling back benefits and curbing the growth of support programs for former Presidents, S. 1047 responds to the concerns that many Americans have that all federal programs must be carefully scrutinized and controlled to reduce costs. A former President has no official statutory responsibilities or duties. Yet, he receives funds for an office staff and allowances, and around-the-clock Secret Service protection. In many ways, he continues to receive all the benefits that a President receives without any of the responsibilities that go with the office.

While a former President does continue in public life long after leaving office, it is important to understand that the taxpayers have over the years assumed the role of guardian to the former President and many aspects of their lives are supported by federal funds. S. 1047 would strike a balance between the legitimate support a former President needs to continue to fulfil his responsibilities to the public and the taxpayers' interest in minimizing excessive federal spending.

The proper role for a former President has been an issue that has faced this country since the days of its earliest Presidents. In those days, former Presidents usually retired to private life upon leaving the duties of office. Today, the pressure upon that role have changed. The Committee recognizes that former Presidents now have a higher public visibility upon leaving office. The Committee also recognizes its duty to assure that public funds are used consistently with the intent of the law. It believes a prudently funded and carefully coordinated program of services to former Presidents should be established to replace the sometimes conflicting, increasingly costly and open-ended set of laws currently governing such benefits and services. Finally, the Committee believes the legislation continues a national policy affirmed by Congress to assist each former President in leading a dignified retired life, free from the need to "commercialize" the institution of the Presidency.

II. Summary of Former Presidents Facilities and Services Reform Act of 1985

OFFICE STAFF AND ALLOWANCES

The bill establishes an original staff allowance of $300,000 a year, which will be reduced over a nine year period to a ceiling of $200,000. The Administrator of the General Services Administra-

tion is to be the accountable Federal official for supervising the allowance.

The legislation limits each former President to one office which is to be located in a public building owned or leased by the United States. The office is not to be in excess of 4,000 square feet unless the Administrator determines unusual circumstances exist to warrant more space.

The Act prohibits absolutely the use of funds for either partisan political activities or income-generating activities. Funds may not be used for the preparation of memoirs or speeches or other media engagements for which the former President is paid.

The bill requires each former President to submit a report by March 1 of each year concerning activities carried out with the funds for necessary services and facilities provided under the Act.

The legislation mandates a 10-year "sunset" provision for the authorization of staff allowances. The automatic termination forces Congress to redetermine what the proper funding should be at least every 10 years.

The Act places the pension of a surviving spouse at two-thirds the level of a former President's pension if he were alive.

The bill authorizes the Administrator to provide necessary services and facilities to a former Vice President for winding up the affairs of Office. The services and facilities shall be of the same general character as the services and facilities provided to a former President in this title of the bill.

PRESIDENTIAL PROTECTION

The legislation specifies a former President may have automatic, around the clock Secret Service protection for five years instead of for life. The Secretary of Treasury must justify at least annually to Congress any additional protection needed.

The Act specifies a spouse and children may have protection for two years after the respective President leaves Office, after which their protection becomes incidental to protection given to the former President.

The bill specifies a surviving spouse, and surviving children are entitled to six months of protection after a former President dies, or to the remaining time in the two year period after a President leaves Office, whichever is longer.

The legislation mandates the Secretary of Treasury to consider any request for protection by a former President, spouse, surviving spouse, children, and surviving children and report to Congress if the request is not acted upon.

The Act authorizes the President to direct the Secret Service to protect a former President, spouse, surviving spouse, child, or surviving child upon determining that a threat warrants emergency action. The President shall notify Congress and such authorization shall not extend beyond sixty days, or beyond the time needed for Congressional review once the Secretary of Treasury has submitted a request.

The bill limits protection of former Vice Presidents from their last day in office to the end of that fiscal year.

III. Discussion of the Legislation

As originally introduced in May of 1985, S. 1047 contained three separate titles which concerned limits on presidential libraries, office staff and allowances, and secret service protection respectively. In October the Committee reported H.R. 1349 in lieu of Title I of S. 1047, which established limits on future Presidential libraries. (See Senate Report 99–257)

The Presidential Libraries Act was passed by the Senate on March 21, 1986. The remaining two titles of S. 1047 relating to office staff and allowances, and Secret Service protection were amended in a Committee mark-up session held November 19, 1985. The title concerning office staff and allowances become Title I of S. 1047 and was not changed substantively from the legislation as it was introduced in May. The title relating to Secret Service protection became Title II and was amended in the November 19 mark-up.

OFFICE STAFF AND ALLOWANCES

As a result of meetings held between Chairman Roth, Senator Chiles, and then Special Counsel to the President Edwin Meese in the waning months of the 98th Congress, the Committee made certain changes in the bill's provisions limiting office staff and allowances for former Presidents.

One change in S. 1047 was the omission of provisions originally in S. 563 requiring the Public Printer to publish memoirs written with the assistance of taxpayer financed resources. To accomodate the Administration's concern that a former President not be limited to having his memoirs published by the Public Printer, an agreement was reached that there could be a competition among publishers for such a publication if a former President chose to use funds provided by the authorizations contained in Title I.

Another change in the bill was including the encouragement that a suitable office for a former President be provided in a public building owned or leased by the United States (Sec. 102(b)). This addition was made at the Administration's suggestion.

Overall, the Committee's purpose in establishing a financial ceiling on the amount dedicated to office staff and allowances and in establishing guidelines to what expenses are allowable is to provide a reasonable limit on certain categories of expenses which are presently open-ended. S. 1047 sets a ceiling on what presently are open-ended authorizations for travel and telephone expenses. Key provisions of this Title will prohibit the use of funds provided by this bill for either partisan political activities or income generating activities.

SECRET SERVICE PROTECTION

Present law authorizes around-the-clock protection for a former President, spouse, or surviving spouse for their entire life. Around-the-clock protection is also authorized for children up to the age of sixteen. Secret Service protection presently provided to former Presidents and their families is provided without any relationship between the level of protection provided and the Secret Service's

assessment of the threat to them. While the Service acknowledges their assessment of threat to a former President generally diminishes the longer the former President has been out of office, the level of protection presently provided a former President ten years out of office is similar to that provided a former President one year out of office.

The Committee during the 98th Congress supported the principle that Congress should reform the automatic-for-life authorization for secret service protection given to Presidents, their spouse, and children. There was agreement that at some point in time after a President left office, it would be necessary to justify protection for the former President or family members based on routine reviews of whether protection was needed. Automatic protection given without any assessment of the threat to the former Presidents or family members was seen in some cases as excessive and wasteful.

The Committee's support for the principle did not come without debate. Senator Eagleton was particularly concerned over the immediate end to full, around-the-clock protection for spouses and children and the shortness of time allowed to protect the surviving spouse. He felt more time was needed for the transition between the full protection received while in office and the level of protection to be received once the respective former President left office. There was also disagreement on when automatic protection should end and how extensions or reinstatements of protection should be determined. Senator Eagleton, joined by Senators Levin, Bingaman, Stevens, and Mathias dissented from the majority view of the Committee on where Congress should draw the lines. (See Senate Report 98-637, page 30.)

The set of limitations on protection provided by S. 1047 as introduced in the 99th Congress is identical to those in S. 563, the bill reported favorably by the Committee during the 98th Congress. S. 1047 specifies a former President can receive five years of automatic, around-the-clock protection. The Secretary of Treasury is authorized to extend the protection an extra year if the Secretary determined it is needed. Afterwards the Secretary is required to determine that the protection is needed and provide justification to Congress. The Congress would have sixty days of continuous session to review the justification. If the Congress does not act, or acts approvingly in the sixty day period, then the Secretary may proceed by extending protection. If Congress disagrees with the Secretary's assessment, separate legislative action would have to direct the Secretary not to extend protection.

A former President's spouse, and children to age sixteen, are provided protection incidental to that of the former President. A surviving spouse and surviving children would be provided six months of protection after a former President dies. The Secretary of Treasury can extend this protection but only after the Secretary submits a determination to Congress that a threat exists and allows sixty days of continuous session of Congress for congressional review.

The sitting President is authorized to order protection for former Presidents and their families on an emergency basis at any time for a sixty day period, or for as long as needed for the Secretary of Treasury to submit a justification to Congress complying with the

requirement for congressional review over sixty days of continuous session of Congress.

During the November 19, 1985 mark-up of S. 1047, Senator Eagleton proposed an amendment to the Secret Service protection provisions which addressed previous concerns and remained consistent to the principle that after a reasonable period of time, Secret Service protection would have to be justified and related to assessments of threat. The amendment specified that the spouse and children of a former President can receive automatic around-the-clock protection for two years, instead of the six months originally in S. 1047. After the two-year period, their protection becomes incidental to that of the former President. Instead of authorizing, as originally in S. 1047, six months of protection for the surviving spouse and surviving children after a former President dies, the surviving spouse and children are entitled to six months of protection after a former President dies, or to the remaining time in the two year period after a President leaves office, depending on whichever is longer. Lastly, the Secretary of the Treasury, in all decisions to extend or reinstate protection, is required to determine that the protection is necessary and provide justification to Congress. Identical to the provision in S. 1047, Congress would then have sixty days of continuous session to review the justification. If the Congress does not act, or acts approvingly in the sixty day period, then the Secretary may proceed by extending protection. If Congress disagrees with the Secretary's assessment, separate legislative action would have to direct the Secretary not to extend protection. The Committee unaimously agreed to the amendment.

Senator Stevens proposed during the November 19 mark-up that the legislation provide the means whereby a former President or a member of the family could request protection. Given that there now would be an expectation that protection would end at some point in time, Senator Stevens suggested that the legislation specifically allow a former President or member of the family to initiate a request for reinstatement that would receive immediate attention from the Congress if the sitting administration did not agree to extend the protection. The Committee agreed. The language in Section 204(c) states that a former President, spouse, or child may request protection and the Secretary of Treasury shall notify the Congress as soon as practicable if the request is denied.

As amended, the provisions of Title II permit a former President to receive extensions of protection for the remaining years of the former President's life without any action from Congress other than periodically reviewing justifications from the Secretary of Treasury. Specific legislative action from Congress would be necessary to overcome a determination by the Secretary that protection is needed.

The Committee intends that the law support the expectation that at some point the need for protection will end. The Committee also intends that a former President receive protection if it is needed. However, after five years, the Treasury Secretary will have a responsibility to justify the need for extended protection. Former President Nixon's recent request to forego his protection supports the conclusion that automatic, unending authorization for protection is unnecessary. Former President Ford has indicated that he

too will consider foregoing protection at some point in the future. This legislation recognizes that it is a Congressional responsibility to help make the decision on how long protection is needed.

The table below outlines the costs associated with benefit programs for former Presidents. As the table shows, the costs have increased dramatically in all categories.

COST OF FORMER PRESIDENTS TO U.S. TAXPAYERS

Fiscal year	Libraries	Office allowances	Secret Service protection	Total
1955	$63,745			$63,745
1956	64,853			64,853
1957	74,836			74,836
1958	142,536			142,536
1959	168,057	$160,000		328,057
1960	180,140	200,000		380,140
1961	219,223	250,000		469,223
1962	294,297	300,000		594,297
1963	325,520	310,000		635,520
1964	380,251	300,000	$49,507	729,758
1965	559,485	310,000	100,790	970,275
1966	611,966	235,000	289,022	1,135,988
1967	613,745	235,000	346,633	1,195,378
1968	676,000	251,000	390,298	
Truman Library addition	312,000			1,629,298
1969	1,406,808	253,000	527,552	
Hoover Library addition	1,074,000			3,261,360
1970	1,980,855	335,000	727,617	3,043,472
1971	2,252,289	343,000	1,002,355	
Eisenhower Library addition	1,610,000			5,207,644
1972	2,513,559	418,000	1,275,120	
Roosevelt Library addition	882,000			5,088,679
1973	2,722,116	408,000	1,241,117	4,371,233
1974	2,863,457	60,000	979,789	3,903,246
1975	4,542,447	160,000	1,530,144	6,232,591
1976	6,409,380	364,168	2,294,887	9,698,435
1977	6,297,611	390,000	4,679,489	11,367,100
1978	7,230,486	671,000	6,252,190	14,153,676
1979	7,523,783	771,000	7,187,582	
Truman Library addition	2,667,000			18,149,365
1980	10,171,000	740,394	7,563,432	18,474,826
1981	12,295,000	718,325	9,741,663	22,754,958
1982	11,532,000	1,025,000	11,750,238	23,384,738
1983	12,972,000	1,029,000	10,941,419	24,942,419
1984	14,350,000	1,068,000	10,741,124	26,159,124
1985	14,636,000	1,151,000	11,416,329	27,203,329
1986 (estimated)	14,612,000	1,100,000	9,387,497	
Kennedy Library addition	5,200,000			30,299,497
1987 (estimated)	16,202,000	1,234,000	9,843,965	27,279,965

IV. Legislative History

The 99th Congress is the fourth Congress in which legislation similar to S. 1047, the "Former Presidents Facilities and Services Reform Act," has been introduced.

S. 2408 was introduced in the 96th Congress on March 11, 1980. Introduction of this bill followed hearings held by the Subcommittee on Civil Service and General Services of the Senate Committee on Governmental Affairs, and joint hearings held by that Subcom-

mittee and the Subcommittee on Treasury, Post Office, and General Government of the Senate Committee on Appropriations.

S. 2408 was sponsored by Senator Chiles, and cosponsored by Senators Pryor, Ribicoff, Percy, Baucus, Burdick, Byrd of Va., DeConcini, Dole, Hollings, Johnston, Proxmire, Sasser, Stone, and Zorinsky.

In the 97th Congress Senator Chiles introduced S. 1325 on June 4, 1981. The bill was cosponsored by 15 other Senators: Senators Pryor, Cohen, Burdick, Goldwater, DeConcini, Hollings, Huddleston, Kassebaum, Lugar, Metzenbaum, Proxmire, Sasser, Stafford, Cannon, and Mitchell.

Hearings were held by the Committee on Governmental Affairs on September 22, 1982. At this hearing, testimony was received from the Archivist, the Secret Service, and the General Accounting Office.

On September 29, 1982 the Governmental Affairs Committee met, considered, and began to mark-up the legislation but did not complete action.

In the 98th Congress, Senator Chiles introduced S. 563, the former Presidents legislation on February 2, 1983. The bill was cosponsored by 22 other Senators including Senators Pryor, Kassebaum, Roth, Proxmire, Burdick, Cohen, DeConcini, Hollings, Sasser, Lugar, Exon, Stafford, Goldwater, Heflin, Nickles, Zorinsky, Huddleston, Percy, Boren, Simpson, Boschwitz and Chafee.

On November 17, 1983 the Committee on Governmental Affairs again considered the legislation but did not conclude. On March 22, 1984 the Committee met to continue marking up S. 563 and ordered the bill reported favorably with an amendment in the nature of a substitute.

On May 9, 1984 the bill was reported to the Senate by Chairman Roth.

In the 99th Congress, Senator Chiles introduced S. 1047 on May 1, 1985. The bill is cosponsored by 19 other Senators including Senators Roth, Pryor, Kassebaum, Burdick, Cohen, Hollings, DeConcini, Sasser, Exon, Nickles, Lugar, Boren, Proxmire, D'Amato, Grassley, Goldwater, Zorinsky, Durenberger, and Boschwitz.

As originally introduced in May of 1985, S. 1047 contained three separate titles which concerned limits on presidential libraries, office staff and allowances, and secret service protection respectively. In October the Committee reported H.R. 1349 in lieu of title I of S. 1047, which established limits on future Presidential libraries. (See Senate Report 99–257). The Presidential Libraries Act was passed by the Senate on March 21, 1986. The Act was passed by the House on May 13, 1986. The bill was signed into law on May 27, 1986 (P.L. 99–323).

The remaining two titles of S. 1047 relating to office staff and allowances, and Secret Service protection were amended in a Committee mark-up session held November 19, 1985. The bill was ordered reported favorably to the Senate by Chairman Roth with amendments. The title concerning office staff and allowances became title I of S. 1047 and was not changed substantively from the legislation as it was introduced in May. The title relating to Secret Service protection became title II and was amended in the November 19 mark-up.

LIST OF RELEVANT HEARINGS

U.S. Congress. Senate. Committee on Governmental Affairs. Subcommittee on Civil Service and General Services. Oversight on the former Presidents Act and the Presidential Transition Act. Hearing, 96th Congress, 1st session. May 16, 1979. Washington, U.S. Govt. Print. Off., 1979. 58 pages.

U.S. Congress. Senate. Committee on Governmental Affairs and Subcommittees of Committee on Appropriations. Cost of former Presidents to U.S. taxpayers. Special hearing, 96th Congress, 1st session. Nov. 6–8, 1979. Washington, U.S. Govt. Print. Off., 1980. 328 pages.

U.S. Congress. Senate. Committee on Governmental Affairs. Benefits to former Presidents. Hearing 97th Congress, 2d session. Sept. 22, 1982. Washington, U.S. Govt. Print. Off., 1982. 132 pages.

V. Section-by-Section Analysis

TITLE I—FORMER PRESIDENTS

Spousal pensions

Section 101 amends subsection (e) of the first section of the Former Presidents Act. The new subsection (e) states the spouse of a deceased former President shall receive a pension which is equal to two-thirds of the rate to which the former President was entitled. The widow or widower of an incumbent President, were that President to die in office, would be treated as the widow of a former President for the purposes of this section. The monetary allowances are to be paid monthly by the Secretary of the Treasury and start the day after the former President dies. The allowances stop on the last day of the month in which the spouse dies or remarries before becoming sixty years of age. The allowance are not payable for any period during which a spouse holds an appointive or elective office, or a position with the Federal Government or the government of the District of Columbia to which they receive a rate of pay other than a nominal rate.

Office and Staff for Former Presidents

Section 102(a) amends subsections (b) and (c) of the first section of the Former Presidents Act. The new subsection (b) authorizes the Administrator of the General Services to provide each former President, upon their request, necessary services and facilities. They may include one suitable office facility, in a public building and owned or leased by the United States. The office shall not exceed four thousand square feet in area, unless the Administrator determines circumstances exist to warrant more space. An example of such circumstances would be if an existing federal building with more than four thousand square feet could be used more economically than a leased facility.

After consultation with a former President or designee, the Administrator may furnish the office facility appropriately. The former President shall designate where in the United States his office shall be located.

The former President shall designate the office staff and determine their rate of compensation. A staff person may not be paid more than the rate provided for level II of the Executive Schedule. Persons receiving compensation as members of an office staff of a former President shall not be considered employees of the Federal Government except for purposes of Chapters 81, 83, 87, and 89 of Title 5 of the United States Code. Title 5 covers Government organizations and employees. Chapters 81, 83, 87, and 89 are entitled respectively; "Compensation for work injuries", "Retirement", "Life Insurance", and "Health Insurance".

The Administrator is also authorized to pay for travel expenses and subsistence allowances, including the rental of Government or hired motor vehicles the former President finds necessary for experts, consultants, or persons serving without pay.

When authorized by the incumbent President, Government aircraft may be used by a former President solely for the purpose of enabling a former President to complete the affairs of his office. When deemed necessary for protective purposes chartered aircraft may also be authorized for use by a former President in winding up the affairs of his Presidency. The cost of either Government or chartered aircraft would be paid with funds appropriated under the authorization of this Act and any collections from the Secret Service or others for the use of space on chartered flights deposited to the credit of the Former Presidents Act appropriation.

Communication services, such as telephone services, found necessary by a former President may also be paid for by the Administrator. The Administrator may also pay for expenses for printing and binding necessary for activities which are nonpartisan and do not generate income regardless of the requirements of section 501 of Title 44. That section controls where and how printing and binding shall be done for Congress, the Executive Office, and the Judiciary other than the Supreme Court.

Movement of the personal effects and household goods of a former President and the family of a former President to a location in the United States selected by the former President shall also be paid by the Administrator.

Any federal employee may be detailed to the office staff of a former President on a reimbursable basis with the consent of the head of the agency from which the employee comes. The detail shall not extend beyond an eight month and ten day period following the date on which the former President left office. The employee shall be responsible only to the former President for the performance of his duties during the period of the detail. However, for the purposes of preserving their benefits, an employee is considered an employee of the agency from which they come and is entitled to pay, allowances, and benefits from funds available to that agency. In that way, the circumstance of the employee is deemed to comply with section 5536 of title 5. That section prohibits an employee or member of a uniformed service, whose pay or allowance is fixed by statute or regulation, from receiving additional pay or allowance for any other service or duty unless specifically authorized by law. The intent of this provision is to enable any detailee to a former President's staff to meet the standard of section 5536 requiring specific authorization by law.

Each former President may designate to the Administrator an assistant who shall be authorized to make designations or findings of necessity required in connection with the services and facilities the Administrator may provide.

A new subsection (d) is added to the Former Presidents Act which states funds provided for necessary services and facilities for a former President shall be used for activities which are a direct result of the former President having held the office of President. Funds may not be used for partisan political activities or activities which generate income, including the preparation of memoirs, speeches, radio or television appearances, or other activity for which the former President would receive any compensation or honorarium. The Administrator shall establish standards to assist the application of this restriction.

A new subsection (e) is added to the Former Presidents Act and states the Administrator is authorized to provide necessary services and facilities to a former Vice President for use in connection with winding up the affairs of that office, similar to those provided a former President. Each former Vice President shall be entitled to have all their mail matter, including airmail, sent by them under their written autograph signature, and related to their preparations for winding up the official duties of Vice President, transported within the United States.

No funds provided to the Vice President shall be used for partisan political or income generating activities, including the preparation of memoirs, or the preparation of speeches, radio or television appearances, or other activities for which the former Vice President would receive any compensation or honorarium.

The Administrator shall expend no funds for facilities and services for a former President at any time beyond ninety days after the date on which the former President dies.

The Administrator or his designee shall approve all expenditures for necessary services and facilities prior to their expenditure. The only exception would be for minor cash expenses that will be handled through an imprest fund. The intent of this provision is to improve the ability of the Administrator to control public funds for which he is responsible.

By March 1 of each year, each former President shall prepare and transmit to the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives a report concerning activities carried out with funds provided by the authorizations under this Act.

In order to provide facilities and services to a former President and a former Vice President authorized by this Act, $1,000,000 is authorized to be approriated for the fiscal year in which the term of the former President expires. None of the funds appropriated, however, may be spent until the day on which the term expires. The purpose of this provision is to clarify the relationship between section 4 of the Presidential Transition Act and the Former Presidents Act. The General Accounting Office identified overlap between the two laws and recommended the Former Presidents Act govern arrangements for outgoing Presidents and the Transition

Act deal only with incoming transition operations. This provision meets that recommendation. For all intents and purposes the transition period is over when a new President takes the oath of office. Consistent with this purpose, section 4 of the Presidential Transition Act of 1963, which authorizes services and facilities to a former President and Vice President for a six month period after their term expires, is repealed.

After the fiscal year in which the term of a former President expires, there is authorized to be appropriated to be Administrator the following schedule of funds:

$300,000 for each of the first four fiscal years;
$250,000 for the fifth, sixth, seventh, and eighth fiscal years;
$200,000 for the ninth fiscal year and fiscal year thereafter.

Existing former Presidents at the date of enactment of this section are treated as if their Presidency ended at the date of enactment. The same schedule begins therefore, for the fiscal years beginning after the fiscal year in which the section is enacted.

This schedule of authorizations for existing and future former Presidents elapses ten years after date of enactment. The intent of this sunset provision is to encourage Congress to reexamine the authorization levels periodically.

Section 5 of the Presidential Transition Act of 1963 is amended to establish a ceiling of $2,000,000 for facilities and services provided a President-elect and Vice President-elect for transition purposes. Every President, for each fiscal year in which his regular term of office will expire, must propose an appropriation to carry out the purposes of a possible transition from an incumbent Presidency to a former Presidency. The intent of this provision is to overcome the natural reluctance on the part of an Administration headed by a President running for re-election to request funds in the budget that would be used only if he is defeated.

TITLE II—PROTECTION OF FORMER PRESIDENTS, FORMER VICE PRESIDENTS, AND THEIR FAMILIES

Section 201 declares that after date of enactment of this Act, no Secret Service protection will be provided to a former President or a family member unless it is authorized in accord with the provisions of Section 201 or extended or reinstated in accord with the provisions of Section 202 of Title II of this Act.

Section 201 further declares the Secret Service is authorized to protect a former President around-the-clock for a period of five years. For future former Presidents, the five year period begins the day they become a former President. For the present former Presidents, the five year period begins the date of enactment of this Act.

The Secret Service is authorized to protect a spouse, and each child up to the age of sixteen, of a former President around-the-clock for a period of two years. For future former Presidents, the two year period begins the day they become a former President. For the present former President, the two year period begins the date of enactment of this Act.

After the two year period has expired, the Secret Service is authorized to protect to spouse and each child to the extent that protection is incidental to that received by the former President.

If the former President dies before the expiration of the two year period of around-the-clock protection authorized for spouses and children, the Secret Service is authorized to provide such protection for a period of six months after the date on which the former President dies, or for the greater period involved in either the six month period after the President dies, or for the remainder of the two year period the spouse or children would have received had the President lived until the end of the two year period.

The Secret Service is further authorized to provide around-the-clock protection to a widow or widower and the children of a former President for a period of six months after the date of death. This protection is authorized even if the former President is not receiving protection from the Secret Service at the time of death.

Authorization for extension or reinstatement of protection

Section 202 provides for additional protection to former Presidents, spouses and minor children after the initial automatic periods authorized in Section 201.

The Secretary of Treasury may extend or reinstate protection for a former President for up to a one-, a one-, or more than one, one-year period. The Secretary must justify the need for the additional protection by determining a threat warranting such protection exists to the former President. The Secretary may not provide the protection until the determination of need for protection is submitted to Congress and sixty days of continuous session of Congress expire after the date on notification.

The sixty days of continuous session of Congress shall be defined as the first period of sixty calendar days of continuous session of Congress following the date of which notification has been given. The term "continuous session of Congress" is to be interpreted as follows: "Neither the days following a sine die adjournment nor the days on which either House is not in session because of adjournment of more than three days to a day certain count in computing the 60 continuous days."

Similarly, the Secretary of Treasury may extend or reinstate protection for a spouse or child or a former President for up to one, one, or more than one six-month period after determining need and submitting the justification to the Congress for sixty days of continuous session.

The intent of the requirement to submit the determinations of need to Congress for review is to place the Secret Service protection given to a former President and their family on a basis other than the present automatic basis. If the Congress does not act, or acts approvingly in the sixty day period, then the Secretary may proceed to provide protection. Continual or periodic protection may be given a former President, a spouse, or child, but it shall no longer be automatic after the initial five-year or two-year period. It must be justified.

Section 202(c) specifically provides that a spouse or child of a former President may request the Secretary of Treasury to provide protection. If the Secretary denies or refuses to take action on the request, the Secretary shall notify the Congress of the decision as soon as practicable.

Section 202(d) authorizes the President to provide protection immediately if a threat warrants emergency action. The President is to notify the Congress when this authority is used. The authority is for sixty days or for however long it takes the Congress to review a determination of need by the Secretary of Treasury submitted to the Congress within the sixty day period. An intent of this emergency authority is to insure that any potential "gaps" of time which may occur as a result of the sixty-day Congressional review period may be avoided if the executive determines the need for protection exists.

Protection of former Vice Presidents

Section 203 authorizes the Secretary of Treasury to protect a former Vice President if the Secretary determines a threat warranting such protection exists. The protection may be provided for a period beginning on the date on which the Vice President's term expires and ending on the last day of the fiscal year in which the term expired.

Section 204 defines the terms "former President" and "child" for the purposes of Title II. A "former President" is an individual who has held the office of President, whose service came to an end for reasons other than removal by impeachment, and who does not currently hold the office of presidency.

The term "child" means a child who has not attained the age of 16 years old.

Section 205 is a technical amendment which strikes out certain current langauge of Section 3056(A) of Title 18 and replaces it with the language of Title II of this Act.

VI. Evaluation of Regulatory Impact

Pursuant to the requirements of paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory and paperwork impact of S. 563, as well as the impact of the bill on personal privacy.

The former Presidents will be required to submit an annual report to the Congress and this will result in some additional time and effort on their part and that of their staffs to account for the expenditure of taxpayer funds.

The Committee does not believe the legislation results in any major changes to the privacy of former Presidents, their families, or the public.

There will not be a cognizable economic or regulatory impact on the public generally, or individuals or businesses other than the former Presidents and their families.

VII. Estimated Cost of Legislation

In compliance with paragraph 11(a) of rule XXVI of the standing rules of the Senate, the Committee provided the following estimate of the cost of S. 1047, prepared by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 10, 1986.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Governmental Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 1047, the Former Presidents Facilities and Services Reform Act of 1986.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1047.

2. Bill title: Former Presidents Facilities and Services Reform Act of 1986.

3. Bill status: As ordered by the Senate Committee on Governmental Affairs, November 19, 1985.

4. Bill purpose: Title I of the bill would increase the pension payment for a spouse of a deceased former president from $20,000 per year to two-thirds of the pension of a former president, which currently is $86,200 per year. Title I also authorizes annual appropriations for each former president to cover the costs of office staff, office space, travel and subsistence, communications, printing, and postage.

Title II would amend current law to limit the extent to which protection of the Secret Service is provided to former presidents and their families. The Secret Service would be authorized to protect a former president for five years and members of the immediate family for two years. Under current law, the Secret Service is authorized to provide lifetime protection to former presidents and their spouses. The bill also provides procedures by which the Secretary of the Treasury, the Congress, and the President can temporarily extend protection beyond the limits set by the bill.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1986	1987	1988	1989	1990	1991
Estimated authorization level	(1)	(1)	−1	−3	−4	−6
Estimated outlays	(1)	(1)	−1	−3	−4	−4

[1] Less than $500,000.

The costs of this bill fall within budget functions 750 and 800.

Basis of estimate: The largest budgetary impact of S. 1047 would result from the proposed changes regarding Secret Service protection. Assuming the bill is enacted on August 1, 1986, and assuming that temporary extensions of protection are not implemented, we

estimate that reducing the length of Secret Service protection for former presidents and their spouses would save about $0.5 million in 1988. Savings would increase to about $5 million by 1991, and more in subsequent years. Beginning two years after enactment, protection would no longer be provided to the wives of former Presidents Johnson, Carter and Ford. (Former President Nixon and his wife no longer receive Secret Service protection.) During 1991, protection would cease for Mrs. Reagan, and former Presidents Ford and Carter.

Other provisions of the bill would have much smaller impacts. The limits on appropriations for expenses of former presidents, established by Title I, would result in outlays savings totaling about $1 million over the 1987–1991 period, compared to projected expenditures under current law. The bill would also increase the pension payment for the widow of former President Johnson; she would be entitled to receive about one-sixth of the proposed annual rate of $57,466 for the remaining two months of the fiscal year, resulting in increased outlays of about $6,000 above current law in 1986, and increased outlays of about $37,500 above current law in each subsequent year.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Jim Hearn.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

VIII. Roll Call Vote in Committee

In Accordance with paragraph 7(c) of Rule XXVI of the standing rules of the Senate, the following Senators were present when the Committee by unanimous voice vote, voted to report S. 1047:

Roth
Stevens
Cohen
Rudman
Cochran
Eagleton
Chiles
Levin
Gore

IX. Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no changes is proposed is shown in roman):

UNITED STATES CODE

TITLE 18—CRIMES AND CRIMINAL PROCEDURE

PART II. CRIMINAL PROCEDURE

CHAPTER 203—ARREST AND COMMITMENT

* * * * * * *

§ 3056. Powers, authorities, and duties of United States Secret Service

(a) Under the direction of the Secretary of the Treasury, the United States Secret Service is authorized to protect the following persons:

(1) The President, the Vice President (or other officer next in the order of succession to the Office of President), the President-elect, and the Vice President-elect.

(2) The immediate families of those individuals listed in paragraph (1).

[(3) Former Presidents and their spouses for their lifetimes, except that protection of a spouse shall terminate in the event of remarriage.**]**

(3) Former Presidents and their spouses and children, in accordance with title II of the Former Presidents Facilities and Services Reform Act of 1986.

[(4) Children of a former President who are under 16 years of age.**]**

[(5)**]** *(4)* Visiting heads of foreign states or foreign governments.

[(6)**]** *(5)* Other distinguished foreign visitors to the United States and official representatives of the United States performing special missions abroad when the President directs that such protection be provided.

[(7)**]** *(6)* Major Presidential and Vice Presidential candidates and, within 120 days of the general Presidential election, the spouses of such candidates. As used in this paragraph, the term "major Presidential and Vice Presidential candidates" means those individuals identified as such by the Secretary of the Treasury after consultation with an advisory committee consisting of the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority and minority leaders of the Senate, and one additional member selected by the other members of the committee.

PRESIDENTIAL TRANSITION ACT OF 1963

* * * * * * *

[SERVICES AND FACILITIES AUTHORIZED TO BE PROVIDED TO FORMER PRESIDENTS AND FORMER VICE PRESIDENTS

[SEC. 4. The Administrator is authorized to provide, upon request, to each former President and each former Vice President, for a period not to exceed six months from the date of the expiration of his term of office as President or Vice President, for use in connection with winding up the affairs of his office, necessary services and facilities of the same general character as authorized by this Act to be provided to Presidents-elect and Vice-Presidents-elect. Any person appointed or detailed to serve a former President or former Vice President under authority of this section shall be appointed or detailed in accordance with, and shall be subject to, all of the provisions of section 3 of this Act applicable to persons appointed or detailed under authority of that section. The provisions of the Act of August 25, 1958 (72 Stat. 838; 3 U.S.C. 102, note), other than subsections (a) and (e) shall not become effective with respect to a former President until six months after the expiration of his term of office as President.

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 5. There are hereby authorized to be appropriated to the Administrator such funds as may be necessary for carrying out the purposes of this Act, except that with respect to any one Presidential transition—

[(1) not more than $2,000,000 may be appropriated for the purposes of providing services and facilities to the President-elect and the Vice President-elect under section 3, and

[(2) not more than $1,000,000 may be appropriated for the purposes of providing services and facilities to the former President and former Vice President under section 4.

The President shall include in the budget transmitted to Congress, for each fiscal year in which his regular term of office will expire, a proposed appropriation for carrying out the purposes of this Act.]

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. There are authorized to be appropriated to the Administrator such sums as may be necessary for carrying out the purposes of this Act, except that with respect to any one Presidential transition not more than $2,000,000 may be appropriated for the purposes of providing services and facilities to the President-elect and Vice-President-elect under section 3. The President shall include in the budget transmitted to Congress, for each fiscal year in which the President's regular term of office will expire, a proposed appropriation for carrying out the purposes of this Act.

AN ACT To provide retirement, clerical assistants, and free mailing privileges to former Presidents of the United States, and for other purposes

(a) Each former President shall be entitled for the remainder of his life to receive from the United States a monetary allowance at a rate per annum, payable monthly by the Secretary of the Treasury, which is equal to the annual rate of basic pay, as in effect

from time to time, of the head of an executive department, as defined in section 101 of title 5, United States Code. However, such allowance shall not be paid for any period during which such former President holds an appointive or elective office or position in or under the Federal Government or the government of the District of Columbia to which is attached a rate of pay other than a nominal rate.

[(b) The Administrator of General Services shall, without regard to the civil service and classification laws, provide for each former President an office staff. Persons employed under this subsection shall be selected by the former President and shall be responsible only to him for the performance of their duties. Each former President shall fix basic rates of compensation for persons employed for him under this paragraph which in the aggregate shall not exceed $96,000 per annum except that for the first 30-month period during which a former President is entitled to staff assistance under this subsection, such rates of compensation in the aggregate shall not exceed $150,000 per annum. The annual rate of compensation payable to any such person shall not exceed the highest annual rate of basic pay now or hereafter provided by law for positions at level II of the Executive Schedule under section 5313 of title 5, United States Code.

[(c) The Administrator of General Services shall furnish for each former President suitable office space appropriately furnished and equipped, as determined by the Administrator, at such place within the United States as the former President shall specify.]

(b)(1) The Administrator of General Services (hereinafter referred to as the "Administrator") is authorized to provide to each former President, upon request, necessary services and facilities, including—

(A) one suitable office, not to exceed four thousand square feet in area unless the Administrator determines that circumstances exist to warrant the provision of an office in excess of four thousand square feet, in a public building owned or leased by the United States in a location in the United States as the former President shall designate;

(B) appropriate equipment for such office, including furniture, furnishings, office machines and equipment, and office supplies, as determined by the Administrator after consultation with the former President or the individual designated by the former President under subsection (c);

(C) payment of the compensation of members of an office staff designated by the former President at rates determined by the former President which are not in excess of the rate provided for level II of the Executive Schedule under section 5313 of title 5, United States Code, except that notwithstanding any other provision of law, persons receiving compensation as members of an office staff of a former President under this subsection shall not be considered to be employees of the Federal Government except for purposes of chapters 81, 83, 87, and 89 of title 5, United States Code;

(D) payment of travel expenses and subsistence allowances, including rental of Government or hired motor vehicles, found

necessary by the former President, as authorized for employees serving intermittingly under section 5703 of such title;

(E) when authorized by the President, transportation on Government aircraft or Government chartered aircraft solely for the purpose of enabling a former President to complete the affairs of such former President's office and otherwise as required incidentally to protect such former President;

(F) communications services found necessary by the former President;

(G) payment of expenses for necessary printing and binding, notwithstanding the provisions of section 501 of title 44, United States Code; and

(H) movement of the personal effects and household goods of a former President and the family of the former President from the Executive Residence at the White House in Washington, the District of Columbia, to a location in the United States selected by such former President.

(2) Any Federal employee may be detailed to the office staff of a former President on a reimbursable basis with the consent of the head of the agency involved. Any such detail shall be for a period not in excess of eight months and ten days after the date on which the former President leaves office. An employee detailed to the office of a former President shall be responsible only to the former President for the performance of such employee's duties during the period of such detail. An employee detailed under this paragraph is deemed, for the purpose of preserving the employee's allowances, privileges, rights, seniority, and other benefits, an employee of the agency from which such employee is detailed, and such employee is entitled to pay, allowances, and benefits from funds available to that agency. The authorization and payment of such allowances and other benefits from appropriations available therefor is deemed to comply with section 5536 of title 5, United States Code.

(3) The costs of providing transportation to a former President under subparagraph (E) paragraph (2) shall be paid from amounts appropriated for such former President under subsection (1) and from such amounts as may be collected by the Administrator from the Secret Service, other Federal agencies, or other persons for the use of space on Government aircraft or Government chartered aircraft and are credited (with respect to such former President) to the account for appropriations under this Act.

(c) Each former President may designate to the Administrator an individual authorized to make, on the behalf of such former President, such designations or findings of necessity as may be required in connection with the services and facilities to be provided under subsection (b).

(d) Funds provided for necessary services and facilities for a former President under this Act shall be used for activities which are the direct result of such former President having held the office of President. Such funds may not be used for partisan political activities or income generating activities (including the preparation of the memoirs of such former President and the preparation for any speech, radio or television appearance, or other activity for which such former President will receive any compensation or honorari-

um), as determined under standards established by the Administrator.

(e)(1) The Administrator is authorized to provide necessary services and facilities to a former Vice President for use in connection with winding up the affairs of office of such former Vice President. Such services and facilities shall be of the same general character as the services and facilities provided to a former President under subsection (b). The Administrator shall provide for the movement of the personal effects and household goods of a former Vice President and the family of the formerVice President from the Vice President's House in Washington, the District of Columbia, to a location in the United States selected by such former Vice President.

(2) Each former Vice President shall be entitled to conveyance within the United States and its territories and possessions of all mail matter, including airmail, sent by such former Vice President under the written autograph signature of such former Vice President in connection with perparations for winding up of official duties as Vice President/

(3) No funds for necessary services and facilities provided to a former Vice President under this Act shall be used for partisan political activities or income generating activities (including the preparation of the memoirs of such former Vice President and the preparation for any speech, radio or television appearance, or other activity for which such former Vice President will receive any compensation or honorarium), as determined under standards established by the Administrator.

(f) No funds appropriated under this Act may be expended by the Administrator for the provision of services and facilities under this Act with respect to a former President or former Vice President at any time after ninety days after the date on which such former President or Vice President dies.

(g) Except for expenditures from an imprest fund consisting of such amounts as the Administrator shall determine, any expenditure of funds under this Act may be made only with the prior approval of the Administrator or the designee of the Administrator.

(h) By March 1 of each year, former President shall prepare and transmit to the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives a report concerning activities carried out with the funds for necessary services and facilities provided under this Act.

(i)(1) to carry out the provisions of subsections (b) and (e), there are authorized to be appropriated to the Administrator with respect to a former President and former Vice President a total of $1,000,000 for the fiscal year in which the term of a former President expires, except that no funds appropriated pursuant to this paragraph shall be available for expenditure until the day on which such term expires.

(2) Except as provided in paragraphs (3) and (4), to carry out the provisions of subsection (b) with respect to each former President, there are authorized to be appropriated to the Administrator—

(A) $300,000 for each of the first four fiscal years beginning after the fiscal year in which the term of a former President expired;

(B) $250,000 for the fifth and each of the three succeeding fiscal years beginning after the fiscal year in which the term of a former President expired; and

(C) $200,000 for the ninth and each of the succeeding fiscal years beginning after the fiscal year in which the term of a former President expired.

(3) Except as provided in paragraph (4), to carry out the provisions of subsection (b) with respect to any individual who is a former President on the date of enactment of this subsection, there are authorized to be appropriated to the Administrator—

(A) $300,000 for each of the four fiscal years beginning after the fiscal year in which this subsection is enacted;

(B) $250,000 for the fifth and each of the three succeeding fiscal years beginning after the fiscal year in which this subsection is enacted; and

(C) $200,000 for the ninth and each succeeding fiscal year beginning after the fiscal year in which this subsection is enacted.

(4) The provisions of paragraphs (2) and (3) shall cease to be in effect ten years after the date of enactment of this subsection.

* * * * * * *

[(e) The widow of each former President shall be entitled to receive from the United States a monetary allowance at a rate of $20,000 per annum, payable monthly by the Secretary of the Treasury, if such widow shall waive the right to each other annuity or pension to which she is entitled under any other Act of Congress. The monetary allowance of such widow—

[(1) commences on the day after the former President dies;

[(2) terminates on the last day of the month before such widow—

[(A) dies; or

[(B) remarries before becoming 60 years of age; and

[(3) is not payable for any period during which such widow holds an appointive or elective office or position in or under the Federal Government or the government of the District of Columbia to which is attached a rate of pay other than a nominal rate.

[(f) As used in this section, the term 'former President' means a person—

[(1) who shall have held the office of President of the United States of America;

[(2) whose service in such office shall have terminated other than by removal pursuant to section 4 of article II of the Constitution of the United States of America; and

[(3) who does not then currently hold such office.]

[*(e)*] *(j) The spouse of a deceased former President shall be entitled to receive from the United States a monetary allowance at a rate per annum, payable monthly by the Secretary of the Treasury, which is equal to two-thirds of the rate which is payable under subsection (a) to a former President. The monetary allowance of such spouse—*

(1) commences on the day after the former President dies;

(2) terminates on the last day of the month before such spouse—

(A) dies; or

(B) remarries before becoming sixty years of age; and

(3) is not payable for any period during which such spouse holds an appointive or elective office or position in or under the Federal Government or the government of the District of Columbia to which is attached a rate of pay other than a nominal rate.

(k) For purposes of this Act, the term "former President" means an individual—

(1) who shall have held the office of President of the United States of America;

(2) whose service in such office has terminated other than by removal pursuant to section 4 of article II of the Constitution of the United States of America; and

(3) who does not currently hold such office.

○

Calendar No. 752

99TH CONGRESS
2d Session

SENATE

REPORT
99-350

GOVERNMENT MANAGEMENT REPORT ACT OF 1986

JULY 31 (legislative day, JULY 28), 1986.—Ordered to be printed

Mr. ROTH, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany S. 2004]

The Committee on Governmental Affairs, to which was referred the bill (S. 2004) to require the President to submit to the Congress an annual report on the management of the executive branch of the Government, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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I. SUMMARY AND PURPOSE

S. 2004 would require the President of the United States to submit an annual report, with his budget, on the major activities undertaken and planned to improve the management of the executive branch of the Government. This report is to include an overview of the general management improvement goals of the President for the previous fiscal year, the current year, and the year for which budget funds are requested; the major management problems and issues; and the major improvement initiatives along with

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an explanation of the initiatives, progress and problems in implementation, and significant impacts on agency program operations.

This information is to be presented within a basic framework of seven management areas: program delivery systems, human resources management, productivity, information resources management, financial management, procurement and grants management, and property management; or any other relevant subject areas the President may choose. The report is also to provide proposals for legislative or other action to improve the management and organization of the executive branch, including proposals to remove statutory impediments to improving management. Finally, the report is to include a summary of each significant new management policy which has been adopted or which has been planned for the current year or the fiscal year for which the budget is requested.

With 90 days after the President submits his report, the Comptroller General is to prepare and transmit an analysis of the report to the Congress. This statement is to contain an evaluation of items in the President's report which the Comptroller General considers to be of particular interest to the Congress, a specification of any issues raised by the report which require further clarification, and an analysis of the extent to which the report complies with the requirements of this Act. The Comptroller General is also given the option of making his own recommendations for improvements of the management or organization of the executive branch, including modification or repeal of statutory impediments to efficient and effective management.

This legislation is necessary to ensure that the Congress is fully and currently informed about Administration plans and activities designed to ensure that our Federal programs are managed effectively and that every taxpayer's dollar is put to its maximum and appropriate use. This report will also serve as the basis for a closer partnership between the legislative and executive branches on efforts to strengthen Government management.

II. Background

President Reagan has placed increased emphasis on management issues. In June 1982, he established the President's Private Sector Survey on Cost Control—the Grace Commission—to identify opportunities for increased effeciency and reduced costs, determine areas where managerial accountability can be enhanced and administrative controls improved, and suggest operating improvements.

In September of that year, the President created the Cabinet Council on Management and Administration, the first Cabinet-level White House group devoted specifically to management issues. He also established Reform '88, a comprehensive program to improve, consolidate and streamline the Government's management systems. After three years, according to the Office of Management and Budget (OMB), this program has already resulted in substantial progress in increasing the efficiency of Federal operations, while building the "management systems for the future."

The Congress has also taken an active interest in management reform in recent years through legislation such as the Paperwork

Reduction Act of 1980, the Prompt Payment Act, the Debt Collection Act of 1982, the Federal Managers' Financial Integrity Act, and the Competition in Contracting Act—all of which were reported by the Governmental Affairs Committee.

Two years ago, the Congress mandated in the Deficit Reduction Act of 1984 a report by the President on how he had responded to recommendations made by outside organizations, including the Grace Commission, to improve government management. The report issued by OMB in February 1985 not only addressed the legislative requirement, but also informed the Congress of other improvement efforts being undertaken. A second management report was transmitted to the Congress with the fiscal year 1987 budget last February. It contained the President's first "management message" in which he stated:

> The pressing need to reduce the deficit, and hence Federal spending, lends impetus to the pursuit of good management. But even absent the present fiscal difficulties, improved management would be a high priority for this administration. The Constitution is rooted in certain fundamental ideas, among which is the people's right to presume a capable, efficient Federal Government in return for taxes duly paid.

III. Legislative History

Senator Roth introduced S. 2004 on January 22, 1986. The Committee held a hearing on this and several other bills constituting the President's Management Legislative Initiatives on February 26, 1986. Testimony was received from James C. Miller III, Director, OMB, and Charles A. Bowsher, Comptroller General of the United States.

In written comments on S. 2004 filed at the time of the hearing, OMB supported the general concept of an annual management report, but expressed concern about "excessive detail and rigidity." They expressed a preference for a bill that simply establishes a requirement for an annual report without highly detailed or rigid provisions. The Committee responded to these concerns as discussed below in the section on Committee Action and Vote.

Comptroller General Bowsher expressed support for S. 2004. He said the bill ". . . holds promise for establishing a process to help sustain executive branch commitment and for providing a forum for congressional oversight." He saw the bill as providing a statutory base for the report—a technique which has been helpful in sustaining past management improvement efforts. "Moreover," he testified, "it would ensure that future administrations account for their progress in key areas, such as financial management and human resources development."

In an attachment to his prepared statement, Mr. Bowsher commented on the comprehensiveness of the report, as follows:

> To the extent that Congress finds it useful to have all management initiative information consolidated in one report, it should clarify how the report will relate to other reporting requirements. * * * The Congress may want to

establish that the comprehensive management report would satisfy other existing reporting requirements. This would reduce the burden imposed on executive agencies and eliminate any duplicative reporting.

IV. Committee Views

OMB said in its February 1985 management report, "The Federal system works best when there is a cooperative Executive-Legislative effort to address national concerns in a balanced way. Jointly agreed-upon action has proven to be the strongest and most effective means of implementing change. The need for such joint action applies to management reform, as well as to other activities of the Federal Government." It is in the interest of furthering this partnership on management reform that the Committee has ordered S. 2004 to be reported.

In July 1985, the President forwarded a message to Congress in which he said: "The American people want and deserve a Federal Government that is fair, efficient, effective, and above all, productive." The large budget deficits of recent years have highlighted just how important a statement this is. Government services need to be delivered at the lowest possible cost, but they also need to be delivered as compassionately and effectively as possible. This requires good management—now more than ever. Therefore, this management report should be given as much attention as the President's budget and his economic report.

This report should serve as the basis for annual hearings of the Committee on the state of government management and what is being done to ensure that the Federal Government has the leadership, the systems, and the organization to meet the challenging times ahead.

The management report OMB issued in February 1985 addressed the legislative requirement in the Deficit Reduction Act to report on progress in implementing Grace Commission recommendations and informed the Congress of other improvement efforts being undertaken. This year's report does the same. Now the Congress has a much better picture of the President's management program. OMB plans to continue reporting annually on management at the time the budget is issued, but the Committee has no assurance beyond the agency's promise that this report will be issued in future years, and the Congress has no direct voice in deciding what the report will contain—other than S. 2004.

The Deficit Reduction Act required only a single report. S. 2004 will ensure that Congress will have such a report every year. Moreover, it outlines the specific subjects on which the President would report, including the provision of a summary of major management improvement initiatives and a discussion for each initiative, where feasible and appropriate, of its purpose, the progress and problems in implementation, and the significant and identifiable impacts on agency program operations.

This bill strikes a balance between keeping the reporting requirements as simple and flexible as possible and assuring that the information provided will be useful to Congress in effectively overseeing executive branch management improvement activities. It also

assures that the President's report will cover all management activities and present, insofar as possible, a balanced summary of both the problems and accomplishments in management.

Three years ago, OMB instituted a management review process, parallel to the budget process, wherein OMB officials meet annually with the management staff of each of the 20 or so largest Federal agencies to discuss an agenda of management reforms for the coming year. Following these meetings, the agencies submit management plans for OMB review and approval. These plans then are the blueprints for agency action the following year. The annual hearings triggered by the report required by S. 2004 would not set up so systematic a process, but they would give Congress an opportunity, similar to that exercised by OMB with executive agencies, to ensure that appropriate actions are being taken to see that the Federal Government is managed in the manner the Nation expects and deserves.

V. Committee Action and Vote

In its comments on S. 2004, OMB welcomed the opportunity to provide a report on the Administration's initiatives, but expressed concern about the "overly prescriptive" requirements contained in the bill. Following the hearing, the Committee staff met with OMB officials to clarify the nature of these concerns. They requested that the bill be amended to clarify the level of detail required in the President's management report and that certain language be included in the Committee report stating, among other things, that the emphasis would be on government-wide initiatives, although there may be individual agency projects which the President may wish to note in his report.

The Committee adopted an amendment removing the language on page 3 of S. 2004 pertaining to costs, benefits, efficiency improvements, and so forth, and inserted in lieu thereof a requirement that the President submit for each initiative a description of "any significant and identifiable impact of the initiative on agency operations." Such description is to include information on costs, savings, efficiencies, and service delivery improvements only where appropriate. In addition, the section-by-section analysis makes clear that the President need report only on his "major management improvement initiatives" (as currently specified in the bill), not the "detailed report on all Government wide problems and issues" described in OMB's comments on the bill.

OMB officials also expressed a preference for striking the requirement that the Comptroller General prepare and submit to the Congress within 90 days a statement analyzing the President's management report, or alternatively including language in the Committee report urging GAO not to unduly burden OMB with information and documentation requests in order to comply with this requirement.

No change was made in the reporting requirement for the Comptroller General, given the need for an independent analysis of the President's report. The section-by-section analysis contains language urging that GAO minimize its information and documenta-

tion requests on OMB but also states that OMB should be forthcoming in meeting those information needs.

On June 25, 1986, the Committee on Governmental Affairs agreed to report favorably S. 2004, as amended, to the Senate, by unanimous vote of 7 to 0.

YEAS—7	NAYS—0
Roth	
Mathias	
Durenberger	
Rudman	
Cochran	
Eagleton	
Levin	

Senators Cohen, Glenn and Gore, not present when the vote occurred, also expressed their approval of the bill.

VI. Section-by-Section Analysis

SHORT TITLE

This section provides that this Act may be cited as the "Government Management Report Act of 1986."

SEC. 2—PRESIDENTIAL REPORT

Subsection (a) of section 2 amends chapter 11 of title 31, United States Code, by adding at the end thereof a new section 1115 requiring an annual management report.

A new subsection 1115(a) of title 31 requires the President to submit with his annual budget a report on the management of the executive branch of Government covering the most recently completed fiscal year, the current fiscal year, and the fiscal year for which the budget is submitted.

This report is to include, first, an overview of the general management improvement goals of the President for the executive branch for such fiscal years. OMB issued a report entitled, "Management of the United States Government, Fiscal Year 1987", in February 1986 which contained a message from President Reagan summarizing the results of his Administration's management initiatives under Reform '88 and describing the goals of this program. A similar statement in the report mandated by this section would satisfy this requirement.

Second, the report is to include a summary of the management problems and issues for the executive branch, and the major management improvement initiatives and accomplishments, in the following areas:

program delivery systems;
human resources management;
productivity;
information resources management;
financial management;
procurement and grants management;
property management; and
any other relevant subject areas.

This provides a basic framework which will be consistent from year to year for reporting on the major initiatives underway and planned under the auspices of OMB and the other central management agencies. The President is required to describe not only the accomplishments of his management program, but also the problems and concerns this program is designed to address. There may be aspects of such problems outside the scope of the President's program requiring the Congress' attention that should also be covered. For example, the President may wish to call the Congress' attention to the need for a consolidated procurement statute which was recently recommended by the Packard Commission.

The OMB management reports issued in 1985 and 1986 also focused on initiatives under OMB's auspices. Little or no mention was made of government-wide initiatives led by other central agencies, such as the Office of Personnel Management's performance management and position classification initiatives. The human resources management area listed above is intended to provide a vehicle for discussing these other initiatives. Other management areas, such as "property management," provide a vehicle to discuss the problems being addressed and the initiatives undertaken by the General Services Administration.

The Committee intends for the coverage to be comprehensive, but the level of detail to remain about the same as in past management reports. The emphasis should be on major, government-wide initiatives. However, OMB may wish to note selected major projects at individual agencies.

Third, the report is to summarize for each initiative discussed under the requirement above, where feasible and appropriate, the purpose of the initiative, the progress and problems in the implementation of the initiative, and any significant and identifiable impact of the initiative on agency operations.

The Committee seeks information on the additional costs, cost savings, and improvements in efficiency, productivity, or service delivery but only where appropriate. The Congress should know whether these initiatives are cost-effective and are resulting in service delivery improvements. It is understood, however, that some costs and savings cannot be easily quantified and that a cause-and-effect relationship cannot always be shown between a given initiative and a change in outcome of a targeted agency program.

Fourth, the report is to provide proposals for legislative or other action to improve the management and organization of the executive branch, including proposals to remove statutory impediments to improving the management of the executive branch. Examples of such proposals include the Paperwork and Regulatory Simplification Act (S. 2010) and the Congressional Reports Elimination Act (S. 992) forwarded to the Congress last year.

Fifth, the report is to include a summary of each significant new management policy for the executive branch which has been adopted or which is planned for the current fiscal year or the fiscal year for which the budget is submitted, and a discussion of the reasons for such policy. This is intended to provide the Congress with a summary checklist of executive orders and OMB bulletins and circulars involving management subjects being developed or planned,

similar to the regulatory agenda submitted to OMB by executive agencies pursuant to Executive Order 12498.

Subsection 2(b) adds a new subsection (g) to section 719 of title 31 requiring that, within 90 days after the President has submitted his management report, the Comptroller General shall prepare and transmit to the Congress a statement analyzing such report.

The Comptroller General's statement is to contain an evaluation of items in the President's report which he considers to be a particular interest to the Congress, a specification of any issues raised by the report which require further clarification, and an analysis of the extent to which the report complies with the requirements of the new section 1115 of title 31. The Comptroller General is also given the option of making his own recommendations for improvements of the management or organization of the executive branch, including modification or repeal of statutory impediments to efficient and effective management.

This statement will give Congress an independent analysis of the President's report and whether such report complies with the requirements of subsection 2(a) above. The General Accounting Office has conducted a number of executive department-level management reviews in recent years and should be in an excellent position to comment on the President's management improvement agenda. This statement also provides the Comptroller General an opportunity to summarize any work his office has undertaken to evaluate the specific management initiatives discussed in the President's report.

The Committee expects a comprehensive statement from the Comptroller General in response to this section. However, it urges that his office not unduly burden OMB with information and documentation requests in order to comply with this requirement, especially during the weeks immediately prior to completion of the President's budget. Conversely, OMB should cooperate fully with the General Accounting Office in providing information needed to comply with this section.

VII. Evaluation of Regulatory Impact

Paragraph II(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact which would be incurred in carrying out the bill.

S. 2004 provides for an annual management report by the President. No new regulations would be promulgated, and no new information requirements would be made on the public. Therefore, the Committee estimates there would be no regulatory or paperwork impact resulting from this legislation.

VIII. Estimated Cost of Legislation

U.S. Congress,
Congressional Budget Office,
Washington, DC, July 15, 1986.

Hon. William V. Roth,
Chairman, Committee on Governmental Affairs, United States Senate, 340 Dirksen Senate Office Building, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 2004, the Government Management Report Act of 1986, as ordered reported by the Senate Committee on Governmental Affairs, June 25, 1986. Enactment of this bill would result in no significant cost to the federal government and in no cost to state or local governments.

The bill would require the President to submit to the Congress, as part of the annual budget request, a report on the management of the Executive Branch. Because the Office of Management and Budget has already issued management reports as part of the 1986 and 1987 budget requests and indicates that it intends to issue the report as part of future requests, this requirement would not result in additional costs. The bill would also require the Comptroller General to evaluate and analyze the annual report and make recommenations to the Congress for improving the management of the government. Existing staff at the General Accounting Office who already work on management issues would conduct such a review, and no significant additional costs are expected.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

Rudolph G. Penner, *Director.*

IX. Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

TITLE 31–MONEY AND FINANCE

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§ 719. Comptroller General reports

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(g) Within 90 days after the President has submitted a report under section 1115 of this title, the Comptroller General shall prepare and transmit to the Congress a statement analyzing such report. The statement shall include—

(1) an evaluation of the items contained in such report which the Comptroller General considers to be of particular interest to the Congress;

(2) a specification of any questions or issues raised by such report which the Comptroller General considers to require further clarification;

(3) an analysis of the extent to which such report complies with the requirements of section 1115 of this chapter; and

(4) recommendations, if any, for improvement of the management or organization of the executive branch of the Government, including modification or repeal of statutory impediments to efficient and effective management.

[(g)] *(h)* When the Comptroller General submits a report to Congress, the Comptroller General shall deliver copies of the report to—

(1) the Committees on Governmental Affairs and Appropriations of the Senate;

(2) the Committees on Government Operations and Appropriations of the House;

(3) a committee of Congress that requested information on any part of a program or activity of a department, agency, or instrumentality of the United States Government (except a mixed-ownership Government Corporation) or the District of Columbia government that is the subject of any part of a report; and

(4) any other committee of Congress requesting a copy.

[(h)] *(i)*(1) The Comptroller General shall prepare—

(A) each month a list of reports issued during the prior month; and

(B) at least once a year a list of reports issued during the prior 12 months.

(2) A copy of each list shall be sent to each committee of Congress and each member of Congress. On request, the Comptroller General promptly shall provide a copy of the report to a committee or a member.

[(i)] *(j)* On request of a member of Congress, the Comptroller General shall explain to and discuss with the committee or committee staff a report that would help the committee—

(1) evaluate a program or activity of an agency within the jurisdiction of the committee; or

(2) in its consideration of proposed legislation.

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CHAPTER 11—THE BUDGET AND FISCAL, BUDGET, AND PROGRAM INFORMATION

Sec.
1101. Definitions.
1102. Fiscal year.
1103. Budget ceiling.
1104. Budget and appropriations authority of the President.
1105. Budget contents and submission to Congress.
1106. Supplemental budget estimates and changes.
1107. Deficiency and supplemental appropriations.
1108. Preparation and submission of appropriations requests to the President.

1109. Current programs and activities estimates.
1110. Year-ahead requests for authorizing legislation.
1111. Improving economy and efficiency.
1112. Fiscal, budget, and program information.
1113. Congressional information.
1114. Budget information on consulting services.
1115. Annual management report.

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115. Annual management report

(a) With each budget of the United States Government submitted under section 1105 of this title, the President shall submit to the Congress a report on the management of the executive branch of the Government with respect to the most recently completed fiscal year, the current fiscal year, and the fiscal year for which the budget is submitted. Each such report shall include—

(1) an overview of the general management improvement goals of the President for the executive branch of the government during such fiscal years;

(2) a summary of the management problems and issues for the executive branch of the government, and the major management improvement initiatives and accomplishments for the executive branch of the government, involving—

(A) program delivery, systems;

(B) human resources management;

(C) productivity;

(D) information resource management;

(E) financial management;

(F) procurement and grants management;

(G) property management; and

(H) any other relevant subject areas; and

(3) for each initiative summarized in paragraph (2), a description, where feasible and appropriate, of—

(A) the purpose of the initiative;

(B) the progress and the problems in the implementation of the initiative; and

(C) any significant and identifiable impact of the initiative on agency operations;

(4) proposals for legislation or other action to improve the management or organization of the executive branch of the government, including proposals to remove statutory impediments to the improvement of the management of the executive branch of the government; and

(5) a summary of each significant new management policy for the executive of the government which has been adopted or which is planned for the current fiscal year or the fiscal year for which the budget is submitted, and a discussion of the reasons for such policy.

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